

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DONALD W. WRIGHT,

Petitioner,

v.

MAGGIE MILLER-STOUT,

Respondent.

Case No. C09-0161-JCC

ORDER DENYING PETITION FOR  
HABEAS CORPUS

This matter comes before the Court on Petitioner Donald W. Wright's Petition for Habeas Corpus (Dkt. No. 4), the Report and Recommendation of United States Magistrate Judge Mary Alice Theiler (Dkt. No. 24), and Petitioner's Objections thereto (Dkt. No. 27). This Court reviews those portions of the Report and Recommendation that Petitioner objects to *de novo*. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1). Having reviewed the relevant materials submitted by the parties, the Court ADOPTS the Report and Recommendation and DISMISSES this action and the Petition for Writ of Habeas Corpus WITH PREJUDICE.


Judge Theiler recommended the action be dismissed because Petitioner failed to file his petition within the one-year limitations period required under 28 U.S.C. § 2244(d)(1). (R&R at 3 (Dkt. No. 24).) Petitioner responds to Judge Theiler's Report and Recommendation by claiming that the limitations

1 period should be equitably tolled. In part, he claims he was unable to file within the limitations period  
2 because he suffered a facial injury which required medical procedures or appointments on six different  
3 occasions. (Objections Ex. B at 3 (Dkt. No. 27).) Additionally, Petitioner alleges he suffered from post-  
4 traumatic stress disorder and clinical depression, and was in transit and without access to the prison law  
5 library between July 20, 2007, and November 5, 2007. (*Id.*) In conclusion, Petitioner claims that “his  
6 depression and pain medication hampered his reason,” rendering him incapable of filing a petition. (*Id.*)

7 As the Report and Recommendation notes, Petitioner’s claim became time-barred on July 19,  
8 2007. Therefore, even assuming Petitioner’s state in transit without access to a law library were  
9 sufficient to permit equitable tolling, these conditions did not commence until July 20, 2007—exactly one  
10 day after the limitations period expired. (*See* R&R at 4 (Dkt. No. 24).)

11 For the reasons explained in the Report and Recommendation, Petitioner’s claim cannot succeed.  
12 Accordingly, the Court ADOPTS the Report and Recommendation and DISMISSES the Petition for the  
13 Writ of Habeas Corpus WITH PREJUDICE. The clerk is directed to close this case.

14 SO ORDERED this 15th day of October, 2009.

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17 The Honorable John C. Coughenour  
18 UNITED STATES DISTRICT JUDGE  
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